

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

UNITED STATES OF AMERICA, :
vs. :
DIEGO IBARRA, :
Defendant. :

**MEMORANDUM OF FACTS IN SUPPORT OF GOVERNMENT'S
MOTION FOR DETENTION**

COMES NOW the United States of America, by and through its attorney, the United States Attorney for the Middle District of Georgia and hereby provides particularized facts in support of the Government's Motion for Detention (ECF No. 8) filed in the above-styled case. In support of said motion, the Government shows the following:

(1)

February 23, 2024 – Arrest in Athens

On February 22, 2024, Laken Riley was murdered in Athens, Georgia. Homicide investigators circulated to Athens-Clarke County Police Department (“ACCPD”) patrol officers a photograph from a surveillance camera of a potential suspect. The photograph was of a Hispanic male wearing a distinctive baseball cap with an Adidas logo. On February 23, 2024, around 8:30 a.m., ACCPD Sgt. Tim Johnson was patrolling the Argo Apartment Community and observed a Hispanic male who was similar in appearance to the man in the surveillance photo and was wearing an “an identical hat.” Sgt. Johnson approached the man, who was subsequently identified as Diego Ibarra (“Ibarra”) and asked him if he had identification (“ID”). Ibarra stated that he did not have an ID but pointed to a University of Georgia food services employee nametag which read “Diego.”

Ibarra was asked where he lived, and he took the officers to Apartment D-126. At his apartment, Ibarra handed Sgt. Johnson an ID, which purported to be a United States Permanent Resident Card (colloquially referred to as a “Green Card”). The ID contained Ibarra’s photograph and the name “Diego Jose Ibarra.” Sgt. Johnson immediately recognized that the ID was fraudulent due to its poor quality and the fact that the ID listed two different birth dates for Ibarra (which are redacted from the photo taken of the ID below).



The ID was turned over to Homeland Security Investigations (“HSI”) agents on scene in Athens who verified that it was counterfeit. Accordingly, Ibarra was placed under arrest. As shown below, this was not Ibarra’s first violation of an immigration offense.

(2)

April 3, 2023 – Illegal Entry into the United States

Ibarra has a lengthy history of encounters with immigration officials – the first documented event occurred on April 3, 2023. On that date, Ibarra entered the U.S. illegally near Eagle Pass, Texas, and was apprehended by U.S. Customs and Border Protection (“CBP”). Ibarra was returned

to Mexico by CBP that same day. However, Ibarra would re-enter the U.S. illegally just 27 days later.

(3)

April 30, 2023 – Illegal Entry into the U.S. and Assault on Border Patrol Agent

On April 30, 2023, a CBP surveillance camera operator spotted five males illegally crossing the U.S. border in Texas from Mexico. The camera operator notified nearby Border Patrol agents. Two Border Patrol agents approached two of the men, who were later identified as Ibarra and Jose Lozado-Salas. After identifying themselves as Border Patrol agents, the agents attempted to apprehend Ibarra and Lozada-Salas. When one of the agents attempted to handcuff Lozado-Salas, he punched the agent in the face. Simultaneously, the other agent attempted to take Ibarra into custody. Ibarra resisted the agent's efforts and grabbed his CBP issued radio and threw it into a nearby yard. At one point, Ibarra attempted to bite the agent. The agents grappled with Ibarra and Lozado-Salas for approximately four minutes before members of the National Guard arrived and assisted the agents in subduing both men. After Ibarra complained of chest pains, he was transported to the Del Sol Medical Center in El Paso, Texas, where he was interviewed by an FBI special agent. Ibarra admitted to the agent that he crossed into the U.S. illegally with four other men, all from Venezuela. Ibarra stated that when they were encountered by the two Border Patrol agents, three of the men ran. Ibarra admitted that he also tried to run, but one of the agents grabbed him and threw him to the ground and that was when the “scuffle” began. The agent documented in his official report that Ibarra admitted to resisting arrest and attempting to avoid apprehension “at any cost.” On August 4, 2023, Lozado-Salas entered a guilty plea to a two-count indictment in the U.S. District Court for the Western District of El Paso, Case No. 23-CR-00984(1)-DCG, to

(Count One) Assault on a Federal Officer, in violation of 18 U.S.C. § 111(a), and (Count Two) Improper Entry by Alien, in violation of 8 U.S.C. § 1325(a)(1). Ibarra was not prosecuted.

(4)

May 25, 2023 – Absconded from Immigration Supervision Program

On May 11, 2023, U.S. Immigration and Customs Enforcement’s (“ICE”) Enforcement and Removal Operations (“ERO”) placed Ibarra in the Alternatives to Detention (“ATD”) program, and he was released from immigration’s custody the following day. Ibarra was required to wear a GPS ankle monitoring device. On May 25, 2023, Ibarra was removed from the ATD program and listed as an absconder after it was determined that he had cut off his ankle monitor. Ultimately, the device was located on the side of a road in Littleton, Colorado. At some point, Ibarra travelled to Athens, Georgia, where he had frequent contact with local law enforcement officers.

(5)

September 24, 2023 – DUI arrest in Athens

On September 24, 2023, at 10:43 p.m., ACCPD Officer Haydn Asinas clocked a blue sedan driven by Ibarra traveling 80 miles per hour (mph) on a 40-mph zoned road in Athens. Officer Asinas activated his blue lights, but the blue sedan did not stop until a second patrol car pulled in front of it. Officer Asinas’s commands for Ibarra to put his “hands out of the window” were ignored. Ibarra had to be forcefully removed from the vehicle as he struggled with the officer. Officer Asinas noticed physical indicators that Ibarra was driving impaired. Additionally, the officer observed an open can of beer in the center console of Ibarra’s car. Ibarra was placed under arrest for driving under the influence (“DUI”). After reading Ibarra his *Miranda* warnings in Spanish, Officer Asinas asked Ibarra how many beers he had consumed. Ibarra initially stated one,

but then changed his answer to seven. Ibarra was transported to the Piedmont Athens Regional Medical Center where his blood was drawn and later sent to the Georgia Bureau of Investigation (“GBI”) laboratory for analysis. The GBI testing did not identify alcohol in Ibarra’s blood but did find the presence of methamphetamine and THC. Ibarra was arrested, booked into the Clarke County Jail, and charged with DUI, Speeding, Failure to Yield to an Emergency Vehicle, Possession of an Open Container of Alcohol, and Driving without a License. After he was released from jail, Ibarra failed to appear for his court date and a warrant was issued for his arrest.

(6)

September 26, 2023 – Domestic Incident in Athens

On September 26, 2023, ACCPD officers were dispatched to 2085 Milledge Avenue, Apartment D-126, in Athens in reference to a domestic dispute after they received a call from a Spanish speaking female, J.G. J.G. stated that her boyfriend, Ibarra, snatched her cell phone from her hand. A struggle ensued and J.G. stated that she bit Ibarra on the chest to get her phone back. J.G. stated that Ibarra slapped her on her face, but the officer did not observe any visible injuries. When questioned, Ibarra admitted to taking the cell phone, but denied that he slapped J.G. The officer observed that Ibarra had an injury to his left hand. When asked about the injury, Ibarra stated that he had punched the wall the day before and injured his hand. Ibarra stated that he does not hit women. Neither party was charged since the officer could not determine who was the primary aggressor. However, a little over a month later, Ibarra would have another encounter with law enforcement in Athens.

(7)

October 27, 2023 – First Shoplifting Incident in Athens

On October 27, 2023, ACCPD officers were dispatched to the Walmart, located at 4375 Lexington Road in Athens in reference to a reported shoplifting committed by two males. The two males were observed stuffing items into bookbags and boarding a bus near the Walmart. An off-duty officer was able to locate the two males, who were identified as Diego Ibarra and his brother, Jose Ibarra (“Jose”). Inside a bookbag in Jose’s possession, officers located items of food taken from the Walmart. Inside Ibarra’s bookbag, officers located stolen t-shirts, shorts, hoodies, and a jacket. In total, both men were found to have taken over \$200 in merchandise from the Walmart. Ibarra and his brother, Jose, were issued citations and advised by a Spanish speaking officer of a pre-arrest diversion program. Less than two months later, Ibarra would be arrested for shoplifting from the same Walmart store in Athens.

(8)

December 8, 2023 – Second Shoplifting Incident in Athens

On December 8, 2023, a Walmart loss prevention officer stopped Ibarra after he was observed placing two t-shirts in his bag and attempting to leave the store. ACCPD Officer E. Higginbotham responded to the Walmart and placed Ibarra under arrest for shoplifting and for an outstanding arrest warrant that was issued when Ibarra failed to appear in court for his DUI charge. Ibarra was told and issued a written notice that he was barred from the Walmart for two years.

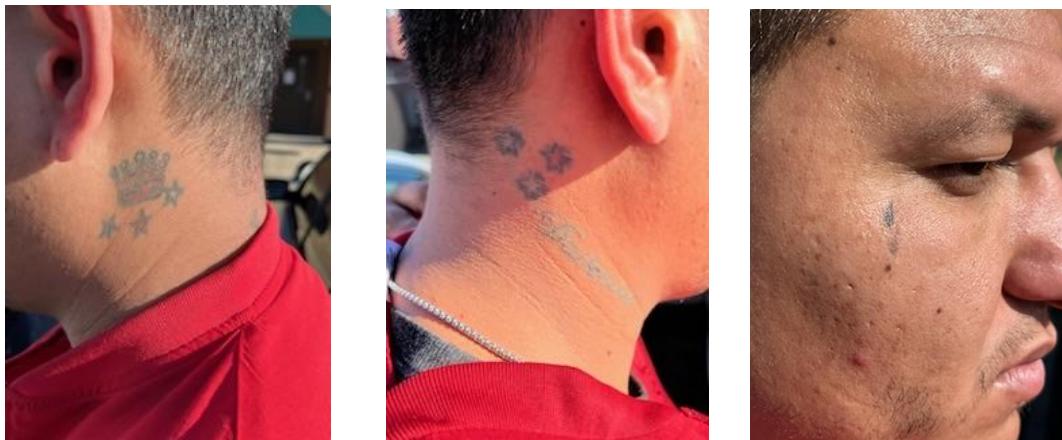
(9)

Evidence of Gang Affiliation

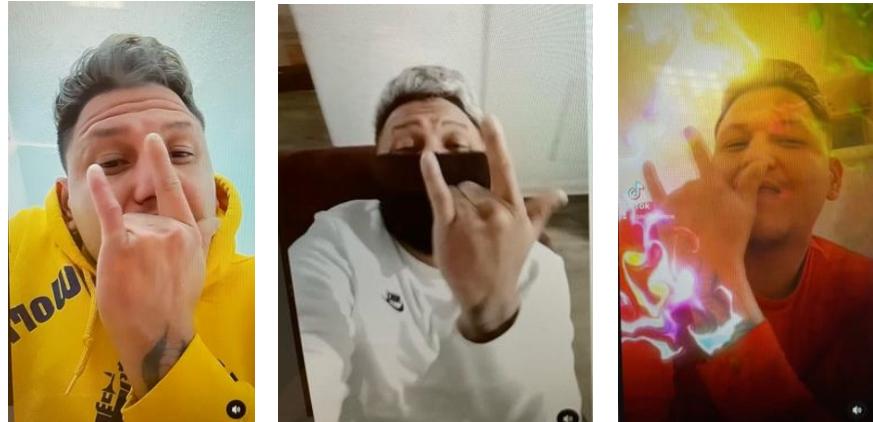
Tren de Aragua (TdA) is a Venezuelan gang, which has been involved in recent violent confrontations with law enforcement and civilian victims in New York and elsewhere throughout

the United States. TdA was formed in the mid to late 2000s in the Tocorón prison in the Venezuelan state of Aragua. Multiple U.S. law enforcement agencies have reported a heavy presence of TdA members in several states, particularly Texas, New York, Illinois, Florida, and Georgia.

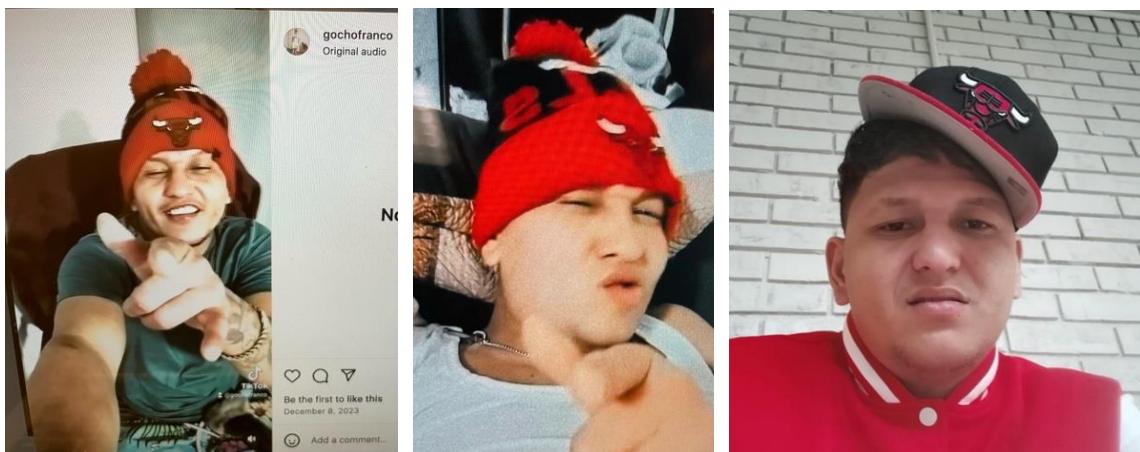
TdA members often have tattoos signifying their affiliation with the gang. Tattoos commonly found on TdA members consist of weapons, stars, clocks, trains, five-pointed crowns, and the dollar sign. Following Ibarra's arrest on February 23, 2024, photographs were taken of his tattoos. Some of Ibarra's tattoos suggest that he is a member of TdA. As shown below, Ibarra has a five-pointed crown tattoo on the left side of his neck, and five-pointed stars on the right side of his neck. Ibarra also has a teardrop tattoo under his right eye – teardrop tattoos are often associated with gangs and gang culture and are not exclusive to TdA, or any single gang.



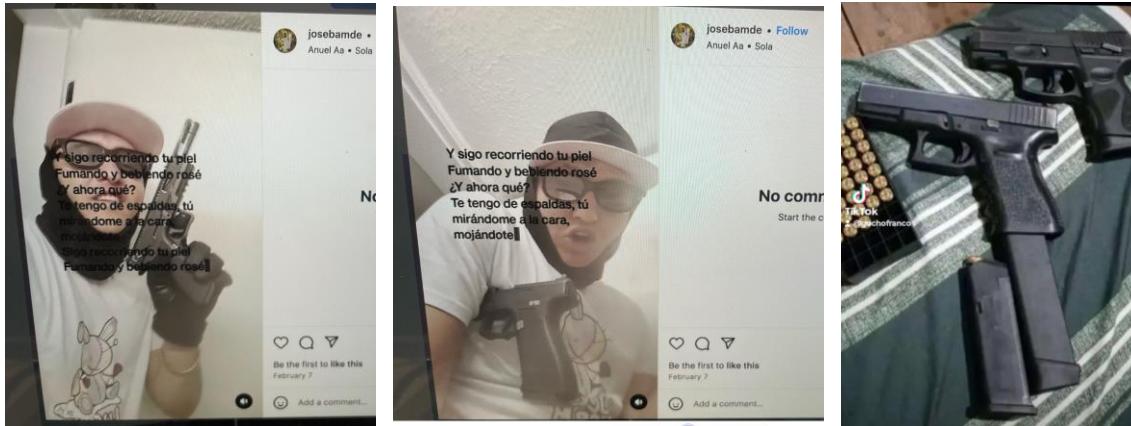
TdA members have a gang hand sign which is displayed by extending the pinky finger, index finger, and thumb, while folding the ring and middle fingers. HSI investigators identified several different social media accounts used by Ibarra. Photos posted to Ibarra's accounts contain several photos of him and others flashing the TdA hand sign. For instance, in the three photos displayed immediately below, Ibarra is displaying the TdA hand sign.



TdA members frequently wear Chicago Bulls basketball attire, even if they have no connection to Chicago or the Bulls. Ibarra has several photos of himself and others on his social media accounts wearing Chicago Bulls attire, a representative sample of which are displayed below.



It is common in the gang culture to openly display photographs of firearms. It is a violation of federal law under 18 U.S.C. § 922(g)(5)(A) for a noncitizen, such as Ibarra, to possess a firearm in the United States. Ibarra posted photos to his social media accounts on February 7, 2024, holding what appears to be a firearm. Additionally, Ibarra posted an image of what appears to be a Glock and a Smith & Wesson pistol positioned next to an open box of ammunition.



CONCLUSION

Based upon the foregoing facts, the Government respectfully requests that Ibarra be detained due to the risk that he will flee the jurisdiction of the Court and the danger that he poses to the safety of persons and the community.

RESPECTFULLY SUBMITTED, this 6th day of March, 2024.

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CERTIFICATE OF SERVICE

I, Michael D. Morrison, Assistant United States Attorney, hereby certify that I electronically filed the within and foregoing ***Memorandum of Facts in Support of Government's Motion for Detention*** by electronically filing said motion with the Clerk of the Court using the CM/ECF system.

This this the 6th day of March, 2024.

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